

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

BOBBY L. TAYLOR,

Plaintiff,

Case No. 1:25-cv-550

v.

Honorable Sally J. Berens

UNKNOWN STOKES,

Defendant.

OPINION

This is a civil rights action brought by a state prisoner under 42 U.S.C. § 1983. In a separate order, the Court has granted Plaintiff leave to proceed *in forma pauperis*. Pursuant to 28 U.S.C. § 636(c) and Rule 73 of the Federal Rules of Civil Procedure, Plaintiff consented to proceed in all matters in this action under the jurisdiction of a United States Magistrate Judge. (ECF No. 4.)

This case is presently before the Court for preliminary review under the Prison Litigation Reform Act, Pub. L. No. 104-134, 110 Stat. 1321 (1996) (PLRA), pursuant to 28 U.S.C. §§ 1915(e)(2) and 1915A(b), and 42 U.S.C. § 1997e(c). The Court is required to conduct this initial review prior to the service of the complaint. *See In re Prison Litig. Reform Act*, 105 F.3d 1131, 1131, 1134 (6th Cir. 1997); *McGore v. Wrigglesworth*, 114 F.3d 601, 604–05 (6th Cir. 1997).

Service of the complaint on the named defendants is of particular significance in defining a putative defendant’s relationship to the proceedings. “An individual or entity named as a defendant is not obliged to engage in litigation unless notified of the action, and brought under a court’s authority, by formal process.” *Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 347 (1999). “Service of process, under longstanding tradition in our system of justice, is

fundamental to any procedural imposition on a named defendant.” *Id.* at 350. “[O]ne becomes a party officially, and is required to take action in that capacity, only upon service of a summons or other authority-asserting measure stating the time within which the party served must appear and defend.” *Id.* (citations omitted). That is, “[u]nless a named defendant agrees to waive service, the summons continues to function as the *sine qua non* directing an individual or entity to participate in a civil action or forgo procedural or substantive rights.” *Id.* at 351. Therefore, the PLRA, by requiring courts to review and even resolve a plaintiff’s claims before service, creates a circumstance where there may only be one party to the proceeding—the plaintiff—at the district court level and on appeal. *See, e.g., Conway v. Fayette Cnty. Gov’t*, 212 F. App’x 418 (6th Cir. 2007) (“Pursuant to 28 U.S.C. § 1915A, the district court screened the complaint and dismissed it without prejudice before service was made upon any of the defendants . . . [such that] . . . only [the plaintiff] [wa]s a party to this appeal.”).

Here, Plaintiff has consented to a United States Magistrate Judge conducting all proceedings in this case under 28 U.S.C. § 636(c). That statute provides that “[u]pon the consent of the parties, a full-time United States magistrate judge . . . may conduct any or all proceedings . . . and order the entry of judgment in the case” 28 U.S.C. § 636(c). Because the named Defendant has not yet been served, the undersigned concludes that Defendant is not presently a party whose consent is required to permit the undersigned to conduct a preliminary review under the PLRA, in the same way Defendant is not a party who will be served with or given notice of this opinion. *See Neals v. Norwood*, 59 F.3d 530, 532 (5th Cir. 1995) (“The record does

not contain a consent from the defendants[; h]owever, because they had not been served, they were not parties to this action at the time the magistrate entered judgment.”).¹

Under the PLRA, the Court is required to dismiss any prisoner action brought under federal law if the complaint is frivolous, malicious, fails to state a claim upon which relief can be granted, or seeks monetary relief from a defendant immune from such relief. 28 U.S.C. §§ 1915(e)(2), 1915A; 42 U.S.C. § 1997e(c). The Court must read Plaintiff’s *pro se* complaint indulgently, *see Haines v. Kerner*, 404 U.S. 519, 520 (1972), and accept Plaintiff’s allegations as true, unless they are clearly irrational or wholly incredible. *Denton v. Hernandez*, 504 U.S. 25, 33 (1992). Applying these standards, the Court will dismiss Plaintiff’s complaint for failure to state a claim.

Discussion

I. Factual Allegations

Plaintiff is presently incarcerated with the Michigan Department of Corrections (MDOC) at the Alger Correctional Facility (LMF) in Munising, Alger County, Michigan. The events about which he complains, however, occurred at the Bellamy Creek Correctional Facility (IBC) in Ionia, Ionia County, Michigan. Plaintiff sues IBC Correctional Officer Unknown Stokes in his individual and official capacity. (Compl., ECF No. 1, PageID.3.)

Plaintiff alleges that, on October 28, 2024, Defendant Stokes issued Plaintiff a fabricated misconduct report for destruction or misuse of property. (*Id.*, PageID.4.) As a result of the

¹ *But see Coleman v. Lab. & Indus. Rev. Comm’n of Wis.*, 860 F.3d 461, 471 (7th Cir. 2017) (concluding that, when determining which parties are required to consent to proceed before a United States Magistrate Judge under 28 U.S.C. § 636(c), “context matters” and the context the United States Supreme Court considered in *Murphy Bros.* was nothing like the context of a screening dismissal pursuant to 28 U.S.C. §§ 1915(e)(2) and 1915A(b), and 42 U.S.C. § 1997e(c)); *Williams v. King*, 875 F.3d 500, 503–04 (9th Cir. 2017) (relying on Black’s Law Dictionary for the definition of “parties” and not addressing *Murphy Bros.*); *Burton v. Schamp*, 25 F.4th 198, 207 n.26 (3d Cir. 2022) (premising its discussion of “the term ‘parties’ solely in relation to its meaning in Section 636(c)(1), and . . . not tak[ing] an opinion on the meaning of ‘parties’ in other contexts”).

misconduct charge, Plaintiff was placed in a cell on a combustible restriction, without clothing, bedding, or a mattress for ten days in freezing temperatures. (*Id.*, PageID.4–5.) Plaintiff was ultimately found guilty of the misconduct charge, resulting in 30 days’ loss of privileges. (ECF No. 1-5, PageID.28.)

Plaintiff brings claims for violation of his Eighth and Fourteenth Amendment rights.² (ECF No. 1, PageID.1.) As a result of Defendant Stokes’ actions, Plaintiff seeks declaratory and injunctive relief and punitive damages. (*Id.*, PageID.1.)

II. Failure to State a Claim

A complaint may be dismissed for failure to state a claim if it fails “to give the defendant fair notice of what the . . . claim is and the grounds upon which it rests.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (quoting *Conley v. Gibson*, 355 U.S. 41, 47 (1957)). While a complaint need not contain detailed factual allegations, a plaintiff’s allegations must include more than labels and conclusions. *Id.*; *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (“Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice.”). The court must determine whether the complaint contains “enough facts to state a claim to relief that is plausible on its face.” *Twombly*, 550 U.S. at 570. “A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Iqbal*, 556 U.S. at 679. Although the plausibility standard is not equivalent to a “‘probability requirement,’ . . . it asks for more than a sheer possibility that a defendant has acted unlawfully.” *Id.* at 678 (quoting *Twombly*, 550 U.S. at 556).

² In the complaint, Plaintiff specifically states that he is bringing claims under the Eighth Amendment and the Fourteenth Amendment. (Compl., ECF No. 1, PageID.6.) Because Plaintiff specifically identifies the claims that he intends to bring in this suit, the Court does not construe Plaintiff’s complaint to raise any other claims.

“[W]here the well-pleaded facts do not permit the court to infer more than the mere possibility of misconduct, the complaint has alleged—but it has not ‘show[n]’—that the pleader is entitled to relief.” *Id.* at 679 (quoting Fed. R. Civ. P. 8(a)(2)); *see also Hill v. Lappin*, 630 F.3d 468, 470–71 (6th Cir. 2010) (holding that the *Twombly/Iqbal* plausibility standard applies to dismissals of prisoner cases on initial review under 28 U.S.C. §§ 1915A(b)(1) and 1915(e)(2)(B)(ii)).

To state a claim under 42 U.S.C. § 1983, a plaintiff must allege the violation of a right secured by the federal Constitution or laws and must show that the deprivation was committed by a person acting under color of state law. *West v. Atkins*, 487 U.S. 42, 48 (1988); *Street v. Corr. Corp. of Am.*, 102 F.3d 810, 814 (6th Cir. 1996). Because Section 1983 is a method for vindicating federal rights, not a source of substantive rights itself, the first step in an action under Section 1983 is to identify the specific constitutional right allegedly infringed. *Albright v. Oliver*, 510 U.S. 266, 271 (1994).

A. Fourteenth Amendment Claim

Plaintiff alleges that Defendant Stokes issued Plaintiff a falsified misconduct charge for destruction or misuse of property, in violation of Plaintiff’s Fourteenth Amendment rights. (ECF No. 1, PageID.4–5.) As a result of the misconduct charge, Plaintiff was placed on a ten-day combustible restriction and received 30 days’ loss of privileges after being found guilty. (*Id.*; ECF No. 1-5, PageID.28.)

To prevail on a procedural due process claim, an inmate must first demonstrate that he was deprived of “life, liberty, or property” by government action. *Wilkinson v. Austin*, 545 U.S. 209, 221 (2005). The Supreme Court long has held that the Due Process Clause does not protect every change in the conditions of confinement having an impact on a prisoner. *See Meachum v. Fano*, 427 U.S. 215, 225 (1976). A prisoner’s ability to challenge a prison misconduct conviction therefore depends on whether the conviction implicated any liberty interest. A prisoner does not

have a protected liberty interest in prison disciplinary proceedings unless the sanction “will inevitably affect the duration of his sentence” or the resulting restraint imposes an “atypical and significant hardship on the inmate in relation to the ordinary incidents of prison life.” *See Sandin v. Conner*, 515 U.S. 472, 484, 487 (1995).

The Sixth Circuit has routinely held that misconduct convictions that do not result in the loss of good time are not atypical and significant deprivations and therefore do not implicate due process. *See, e.g., Ingram v. Jewell*, 94 F. App’x 271, 273 (6th Cir. 2004), *overruled on other grounds by Maben v. Thelen*, 887 F.3d 252 (6th Cir. 2018); *Carter v. Tucker*, 69 F. App’x 678, 680 (6th Cir. 2003); *Green v. Waldren*, No. 99-1561, 2000 WL 876765, at *2 (6th Cir. June 23, 2000); *Staffney v. Allen*, No. 98-1880, 1999 WL 617967, at *2 (6th Cir. Aug. 12, 1999). Under MDOC Policy Directive 03.03.105, ¶ C (eff. Aug. 26, 2024), a Class I misconduct is a “major” misconduct and Class II and III misconducts are “minor” misconducts. The policy further provides that prisoners are deprived of good time or disciplinary credits only when they are found guilty of a Class I misconduct. *Id.* ¶ DDDD. Here, Plaintiff was charged with a Class II misconduct. (ECF No. 1-2, PageID.19.) Therefore, the misconduct charge could not have resulted in the loss of good time credits.

While the Court recognizes that the deprivation of clothes, a mattress, and bedding for ten days would undoubtedly be uncomfortable, Courts have held that such allegations do not rise to the level of an “atypical and significant hardship” required to state a claim under *Sandin*. 515 U.S. at 483-84; *see also, Sanders v. Smith*, No. 1:11-CV-892, 2011 WL 5921426 at *17 (W.D. Mich. Nov. 27, 2011) (holding that more than 30 days on a “mattress, sheets & bed covering restriction” with no clothes was not so “atypical and significant” as to give rise to a Fourteenth Amendment

due process claim); *Blair v. Kentucky State Penitentiary*, No. 5:21-CV-P75, 2022 WL 660792, at *6–7 (W.D. Ky. Mar. 4, 2022) (collecting cases).

The same is true of Plaintiff’s claim that he received 30 days’ loss of privileges because of his misconduct conviction. Pursuant to MDOC Policy Directive 03.03.105, the “loss of privileges” sanction involves the loss of various privileges, such as access to the day room, exercise facilities, group meetings, “[o]ut of cell hobbycraft activities,” the kitchen area, the general library (not including the law library), movies, music practice, and other “[l]eisure time activities.” MDOC Policy Directive 03.03.105, Attach. E. Where a stay longer than 30 days in segregation is not considered an atypical or significant hardship, *see Joseph v. Curtin*, 410 F. App’x 865, 868 (6th Cir. 2010), it would be illogical to suggest that the lesser penalty of loss of privileges for that duration could be atypical or significant. Sixth Circuit authority bears that out. *See Ingram v. Jewell*, 94 F. App’x 271, 273 (6th Cir. 2004) (holding that a 14-days’ loss of privileges sanction did not implicate the due process clause); *Carter v. Tucker*, 69 F. App’x 678, 680 (6th Cir. 2003) (nine-month loss of package privileges did not impose an atypical and significant hardship); *Alexander v. Vittitow*, No. 17-1075, 2017 WL 7050641, at *3 (6th Cir. Nov. 9, 2017) (concluding that “thirty days’ loss of privileges . . . did not implicate a protected liberty interest”); *Langford v. Koskela*, No. 16-1435, 2017 WL 6803554, at *3 (6th Cir. Jan. 24, 2017) (holding that 30 days’ toplock and 30 days’ loss of privileges “does not amount to an ‘atypical and significant hardship’”).

Therefore, for the foregoing reasons, Plaintiff’s due process claim related to his misconduct charge and conviction is properly dismissed for failure to state a claim.

B. Eighth Amendment Claim

Plaintiff alleges that he was deprived of a mattress, bedding, and clothing for ten days as a result of the misconduct charge issued by Defendant Stokes, in violation of his Eighth Amendment rights. With its prohibition against cruel and unusual punishment, the Eighth Amendment protects

against the denial of the “minimal civilized measure of life’s necessities.” *Rhodes v. Chapman*, 452 U.S. 337, 347 (1981); *see also Wilson v. Yaklich*, 148 F.3d 596, 600–01 (6th Cir. 1998). However, the Eighth Amendment is only concerned with “deprivations of essential food, medical care, or sanitation” or “other conditions intolerable for prison confinement.” *Rhodes*, 452 U.S. at 348 (citation omitted). Moreover, “[n]ot every unpleasant experience a prisoner might endure while incarcerated constitutes cruel and unusual punishment within the meaning of the Eighth Amendment.” *Ivey v. Wilson*, 832 F.2d 950, 954 (6th Cir. 1987). “[R]outine discomfort is ‘part of the penalty that criminal offenders pay for their offenses against society.’” *Hudson v. McMillian*, 503 U.S. 1, 9 (1992) (quoting *Rhodes*, 452 U.S. at 347). Consequently, “extreme deprivations are required to make out a conditions-of-confinement claim.” *Id.*

For a prisoner to prevail on an Eighth Amendment claim, the prisoner must show that he faced a sufficiently serious risk to his health or safety and that defendants acted with “‘deliberate indifference’ to inmate health or safety.” *Mingus v. Butler*, 591 F.3d 474, 479–80 (6th Cir. 2010) (citing *Farmer v. Brennan*, 511 U.S. 825, 834 (1994)); *see also Helling v. McKinney*, 509 U.S. 25, 35 (1993) (applying deliberate indifference standard to conditions of confinement claims). The deliberate-indifference standard includes both objective and subjective components. *Farmer*, 511 U.S. at 834; *Helling*, 509 U.S. at 35–37. To satisfy the objective prong, an inmate must show “that he is incarcerated under conditions posing a substantial risk of serious harm.” *Farmer*, 511 U.S. at 834. Under the subjective prong, an official must “know[] of and disregard[] an excessive risk to inmate health or safety.” *Id.* at 837. “[P]rison officials who actually knew of a substantial risk to inmate health or safety may be found free from liability if they responded reasonably to the risk, even if the harm ultimately was not averted.” *Id.* at 844.

While unpleasant, Plaintiff's temporary placement on a combustible restriction fails to state an Eighth Amendment claim. "The level of discomfort and injury one might expect a prisoner to suffer by virtue of sleeping without a mattress for a few days simply cannot support a claim that the prisoner has been denied 'the minimal civilized measure of life's necessities.'" *Lee v. Wagner*, No. 1:17-cv-474, 2017 WL 2608752, at *4 (W.D. Mich. June 16, 2017) (quoting *Rhodes*, 452 U.S. at 347). Despite variations on (1) the reason for the restriction; (2) the duration of the restriction; (3) the susceptibility of the prisoner to injury; and (4) the alleged injury, the courts in the Sixth Circuit Court of Appeals and this Court have routinely rejected Eighth Amendment claims based on mattress restrictions. *See Richmond v. Settles*, 450 F. App'x 448, 455 (6th Cir. 2011) ("In the absence of evidence that a prisoner suffered a physical injury, the deprivation of a mattress and bedding for a fixed period of time does not violate the Eighth Amendment."); *Jones v. Toombs*, No. 95-1395, 1996 WL 67750 (6th Cir. Feb. 15, 1996) (prisoner denied mattress for two weeks); *Cook v. Leitheim*, 1:22-cv-630, 2022 WL 3040342, at *6 (W.D. Mich. Aug. 2, 2022) (concluding that a 30-day mattress restriction did not rise to the level of an Eighth Amendment violation); *Sanders v. Smith*, No. 1:11-cv-892, 2011 WL 5921246, at *17 (W.D. Mich. Nov. 27, 2011) (concluding that a 38-day mattress restriction did not rise to the level of an Eighth Amendment violation); *Jones v. Carberry*, No. 2:08-cv-268, 2010 WL 1172562, at *3 (W.D. Mich. Mar. 24, 2010) (concluding that a 39-day mattress restriction did not rise to the level of an Eighth Amendment violation); *Brandon v. Bergh*, No. 2:09-cv-179, 2009 WL 4646954, at *3-4 (W.D. Mich. Dec. 8, 2009) (concluding that a 30-day mattress restriction did not rise to the level of an Eighth Amendment violation).

Likewise, the Sixth Circuit has explained that "a short-term deprivation of clothing, bedding, and other personal property has not been found to violate the Eighth Amendment."

Watison v. Perry, No. 23-5059, 2024 WL 3461194, at *2 (6th Cir. Feb. 15, 2024) (holding that an eight-day deprivation of clothing, bedding, and other personal property did not violate the Eighth Amendment because they “were not sufficiently severe, they were temporary, and Watison presented no evidence that they caused him any serious health issues.”); *see also Trammell v. Keane*, 338 F.3d 155, 163-65 (2d Cir. 2003) (finding no violation of the Eighth Amendment when inmate deprived of clothing, blanket, and mattress for several weeks, and toilet paper for more than a week as a disciplinary measure because discomfort of lacking clothing and bedding did not risk inmate’s health and safety); *Wiley v. Kentucky Dep’t of Corr.*, 2012 WL 5878678, at *4 (E.D. Ky. Nov. 21, 2012) (conditions including cold temperatures did not rise to the level of a constitutional violation when they were “experienced for a short period of time, fourteen days”);

Here, Plaintiff’s restriction falls within the range of durations that are routinely found to be acceptable. Moreover, he does not allege that he suffered any particular discomfort or pain as a result of the combustible restriction that left Plaintiff without a mattress, bedding, or clothing for ten days. Put simply, Plaintiff has failed to allege facts that support an inference that the ten-day combustible restriction satisfies either the objective or subjective elements of an Eighth Amendment claim. Therefore, the Court will dismiss Plaintiff’s Eighth Amendment claim.

Conclusion

Having conducted the review required by the PLRA, the Court determines that Plaintiff’s complaint will be dismissed for failure to state a claim, under 28 U.S.C. §§ 1915(e)(2) and 1915A(b), and 42 U.S.C. § 1997e(c). The Court must next decide whether an appeal of this action would be in good faith within the meaning of 28 U.S.C. § 1915(a)(3). *See McGore* 114 F.3d at 611. Although the Court concludes that Plaintiff’s claims are properly dismissed, the Court does not conclude that any issue Plaintiff might raise on appeal would be frivolous. *Coppedge v. United States*, 369 U.S. 438, 445 (1962). Accordingly, the Court does not certify that an appeal would not

be taken in good faith. Should Plaintiff appeal this decision, the Court will assess the full appellate filing fee pursuant to Section 1915(b)(1), *see McGore*, 114 F.3d at 610–11, unless Plaintiff is barred from proceeding *in forma pauperis*, *e.g.*, by the “three-strikes” rule of Section 1915(g). If he is barred, he will be required to pay the full appellate filing fee in one lump sum.

A judgment consistent with this opinion will be entered.

Dated: May 30, 2025

/s/ Sally J. Berens
SALLY J. BERENS
United States Magistrate Judge